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REPORTS

NOTES OF THE WEEK

Known to the Police

To describe a person as known to the police is usually regarded as detrimental to his character, but it need not always be so. There may be some advantage in being known to the police.

The East Anglian Daily Times tells of a case in which a police constable, not giving the usual statement of the defendant's antecedents, but voluntarily appearing and asking the court to allow him to speak on behalf of a young man who had pleaded guilty to a charge of wilful damage, said he had known the defendant some years and he was a good lad who had become excited by a few drinks.

It is to be hoped that the old idea that the police were generally against the defendant has by now been completely dispelled. Any police officer who can speak well of a defendant is willing enough to do so. Addressing the Justices' Clerks' Society last year the Lord Chief Justice recalled a case in which a prisoner with a record of convictions told of his efforts to keep straight, adding that a certain police superintendent would bear him out. This the superintendent did and the Lord Chief Justice dealt leniently with the man.

In the course of their duty police officers often have to make statements about a man's bad character. We are certain that when they can do so, they are glad to speak well of a man.

The Age Limit for Justices

Some interesting inside information about the way in which the age of 75 was arrived at as that at which justices should be placed on the supplemental list, was given by Mr. Chuter Ede when bidding farewell to his colleagues of the Epsom bench.

Mr. Chuter Ede was Home Secretary in 1949 and he was in favour of prescribing 70 as the retiring age to be inserted in the Justices of the Peace Bill. It was apparently thought that in view of public opinion there would be a reduction from 75 to 70 and this the Government would have accepted rather than risk a reduction from 70 to 65.

There will always be difference of opinion about the proper age for retirement, but Mr. Chuter Ede pointed out the importance of seeing that justices are such as to command the confidence of the public, adding that in his 26 years of experience this had not always been the case.

Whatever age limit is fixed it will always mean that some aged but still completely competent justices have to be sacrificed to it. On the other hand, an age limit provides a means of enforcing, without embarrasment, the retirement of some who are not fit to continue, but fail to realise the fact. Probably 75 will remain the prescribed age for some time to come.

Assaults on the Police

The Yorkshire Post and other newspapers have given prominence to a recent article in the *Police Chronicle* strongly criticizing the way in which magistrates' courts deal with persons convicted of assaulting the police. A senior police officer is quoted as saying "You can kick a policeman's ribs in—or worse—for £2," and supporting his statement by examples of leniency. Great bitterness was being caused among the police, he said. The article suggests it is time that it was made plain to the roughest elements that mob rule will not be tolerated in this country.

The Yorkshire Post interviewed a number of magistrates and some senior police officers. The attitude of the magistrates generally was that they fully appreciated the need to deal seriously with violent assaults, for the preservation of public order and the protection of the police. They did not admit that they had acted with undue leniency. Police officers rightly declined to make any comment.

It does seem true that there is in some parts of the country what the *Police Chronicle* describes as the "cult of violence." Where this is manifest it is clearly the duty of magistrates to treat it as a matter of grave concern, whether the victims of violence are the police or members of the public. That the victim of an assault is a police officer is a serious aggravation of the offence, and it cannot often be right that such an offence should be visited with a small fine or perhaps with a fine at all. As we have said before, we think magistrates are right to consider other possibilities than imprisonment,

especially in the case of young offenders, but there are cases in which it cannot properly be avoided. Young ruffians must be taught a lesson, perhaps in a detention centre, or may be in a borstal institution or a prison.

Exception may be taken, and has been in some quarters, to the terms of the article in question, but it may serve some useful purpose. There should never be any question of magistrates supporting the police at all costs; that creates public uneasiness. When a case of assault on the police is proved to the satisfaction of the court, however, the public expects the decision of the court to register the court's disapproval and its determination to do all that it can to put down lawlessness and violence. To make a hard and fast rule to send every offender to prison would be wrong, because exceptional cases arise, but the potential offender should have cause to think of the risk he runs.

Policemen are expected to show infinite restraint and forbearance even when their patience is sorely tried. In this they rarely fail, and assaults on them are generally quite unprovoked.

Juvenile Delinquency

Professor Richard Ellis, Professor of Child Life and Health at the University of Edinburgh, spoke despondently about the reduced mental health and stability of juveniles when addressing recently the British National Conference on Social Work at Edinburgh (we quote from the *Manchester Guardian*). He said a survey of Glasgow youths leaving school, excluding those already on the roll of approved schools, showed that 11.6 *per cent.* had been convicted at least once by the age of 17 and of these more than one in five had had their first conviction by the age of 11. Speaking on the importance of child guidance clinics he said that the number of cases referred to these clinics throughout the country far exceeded the facilities to deal with them adequately. In the older groups neurotic disorders most frequently date back to childhood, and were the commonest single cause of rejection from the Services. Professor Ellis raised the question as to whether the activities of the welfare state were in any way responsible for the weakness of parental responsibility or even breakdown of the family. On the effects of divorce he said that free legal aid had made this much easier resulting in a meteoric rise in the past 25 years. He criticized the cost of the legal aid system as compared with less than one-sixth of this sum contributed to marriage guidance councils whose main function is the promotion of successful marriage. Speaking of compulsory education he said there were dangers of friction between home and school which might lead to split discipline in the same way as quarrelling of parents.

The concern expressed by Professor Ellis is supported by information given recently by the Home Secretary in the House of Commons. He said that 933 persons age 14 and under 18 were convicted of drunkenness during 1956. Nearly 70 *per cent.* of these were aged 17 and about 25 *per cent.* aged 16. The number of convictions of persons aged 18 and under 21 was 4,452. In 57 *per cent.* the police had no knowledge of the source of the liquor in cases of offences by persons under 18 years but in 33 *per cent.* it was stated to be public houses

Legitimation (Re-registration of Birth) Act, 1957

This Act originated in a private member's Bill with the object of clarifying and making completely certain the provisions of the Legitimacy Act, 1926. Originally, as was explained by Mr. David Gibson Watt in moving the second reading of the Bill, it was generally supposed that all classes of persons recognized as legitimated by the subsequent marriage of their parents were covered by the Act of 1926. But in 1952 the court decided that there was a distinction between classes of illegitimate persons and that those legitimated by common law were not persons to whom the provisions of the Act applied. For instance, an unmarried woman might have a child in England or Wales by a man who was legally domiciled in Scotland. If he later married the mother while still remaining domiciled in Scotland the legitimation of the child would be governed by the law of Scotland. When the child was legitimated by the Scottish law the English common law would automatically recognize that legitimation. But the provisions of the 1926 Act would not operate, and there was no legal authority for the child's birth to be re-registered in legitimate form.

The Act therefore extends the provisions of the re-registration of birth in s. 14 of the Births and Deaths Registration Act, 1953, to all persons recognized by the law of England and Wales as having been legitimated by the subsequent marriage of their parents. This extension is applied retrospectively to give legal effect to re-registrations which have in fact been made since 1926 without statutory authority. The Act further provides for the extension to the parents of persons affected by the Act the duty to give information for registration imposed by para. 2 of the schedule to the Legitimacy Act, 1926. The Act extends for a period of three months after the Act became law, *viz.*, to October 17, 1957, the time within which that duty should be carried out. These parents are liable to the penalty imposed by s. 36 (*d*) of the 1953 Act for failure to give the required information.

Reasons for Crime?

The Criminal Law is designed to enforce a standard of conduct in organized communities which will make it possible for people to live together in such communities in reasonable peace and security without the necessity for taking the law into their own hands. Education, in its widest sense, should include training in responsibility and citizenship so that people appreciate that they must behave reasonably, and it should emphasize that each adult person must play his own part and not expect to push his personal responsibilities on to other people. Experience in the courts would suggest that education does not by any means succeed, in a number of cases, in instilling this sense of individual responsibility. Maybe the failure in many cases is due to the fact that, as the proverb has it, one cannot make a silk purse out of a sow's ear, but it may be due in part to the fact that there are always a considerable number of willing, kindly and well-meaning people ever-ready to shoulder the burdens of others and to regulate their affairs for them. The Welfare State should not try to take from the individual his responsibility for managing his own affairs, it should aim at encouraging and assisting him to stand on his own feet and not to throw up the sponge the moment any difficulty is encountered.

We are prompted to these reflections by a report in *The East Anglian Daily Times* of August 3, about a man of 24 who was found guilty of attempting to take away a motor van without the consent of the owner. The probation officer is reported to have said of him that he "was not a vicious type of chap, but had some personal trouble which concerned his girl friend *which explained his getting into a careless attitude concerning himself and, when stimulated with drink, doing such things as this*" (the italics are ours). Here we have a typical example of the "couldn't

care less " attitude of mind which is all too common nowadays. To put forward such an excuse as a reason for committing an offence for which the maximum penalties are three months or a fine of £50 on summary conviction and 12 months and/or a fine of £100 on conviction on indictment shows a lack of any sense of responsibility. It is a constant problem for those interested in penal reform to try to find means to bring such people to realize that they must carry their own burdens in life and not just drift into crime the moment they encounter some difficulty or disappointment. We should like to take the opportunity to pay tribute, in this connexion, to the work of probation officers who strive always, whilst helping their probationers, to persuade and lead them to realize that difficulties must be faced and overcome and that they cannot expect always to have someone on hand to lean on. In spite of many disappointments probation has many successes to its credit.

Parked Vehicles and Excise Licences

Although we do not wish to do anything to encourage the use of the streets for garaging cars we felt obliged, in answering a Practical Point at 121 J.P.N. 506, to express the opinion that when a car is left " garaged " in the street for a period and is not driven while so garaged, there is no use of the car which requires an excise licence to be in force during that time.

We are grateful to a Scottish correspondent who writes to tell us about a case in which this very point arose. In a stipendiary magistrates' court a man was summoned for an offence against s. 15 of the Vehicles (Excise) Act, 1949, he having left his car, unlicensed, in the street from January 1 to March 14 inclusive. The learned magistrate found him not guilty on the ground that the defendant " on the date libelled did not use the vehicle without a licence on a public road within the intention of the Vehicles (Excise) Act, 1949." He was asked by the prosecution to state a case and in that case he said " In my view the Act implies some active use of the vehicle on a public road and does not apply to the particular circumstances arising in this case."

It is perhaps unfortunate that this case did not come before the High Court for decision. The Ministry of Transport and Civil Aviation were apparently consulted and they informed the local taxation officer concerned that they were advised by the Lord Advocate's department that in their opinion a vehicle could not be said to be " used " for the purposes of the Act of 1949 while it is parked on a road. In these circumstances the appeal was not pursued. We are left, therefore, with the position that the point has not been decided by the High Court but at least we have some support for the opinion we expressed.

Inscriptions on Litter Bins

We find something strange in the episode in Derbyshire, of advertisements upon litter bins provided by some town councils and district councils. In two boroughs, two urban districts, and a rural district, the local authorities had been refused planning permission by the county council, for allowing advertisements to be displayed upon the bins. Figures published by *The Times* from one of the urban districts indicated that the council would not merely be relieved of the cost of providing bins, but would be paid an additional sum by the intending advertisers. Upon appeal against the county council's refusal, the Minister of Housing and Local Government upheld the county council, speaking of " civic design and dignity," although his letter of decision conceded that more than 300 local authorities were already using litter bins which bore advertisements. It might have been added that there are others who use these bins for announcements or warnings of their own: there are, for example, London borough councils who paint upon their bins a statement of the effect of byelaws about litter and about the fouling of the streets. Moreover, in a county borough the town council is the planning authority, and the county council has no say in the matter. We are not sure which provision of the law of town and country planning was in question in these towns in Derbyshire; we accept the law as being that planning permission was required. Even so, litter bins at best are utilitarian rather than decorative. A bin should be well shaped, well painted, and kept clean. Whether it has lettering upon it, and, if so, whether the lettering advises the public to keep Britain tidy or to keep its teeth clean, can hardly have much effect upon amenity, and we should have thought that the inscription was eminently a matter which might be left to local authorities themselves (one of whom in this case was the town council of a famous health resort), instead of being settled at the county town.

Time to Pay

The Birmingham Post of August 14 published a report of a case in which fines totalling £275 were ordered by Coventry quarter sessions to be paid at the rate of £1 per week. The offender was a tractor driver, said to be earning £9 a week. He was said to have been committed for trial, by the Coventry magistrates, for taking and driving away a car, driving at a speed dangerous to the public, and driving while disqualified. While awaiting trial, and while still disqualified, he was said to have taken and driven away a van. He was placed on probation for the first " taking and driving " offence, fined £100 for driving at a speed dangerous, fined £25 for the first offence of driving while disqualified, fined £100 for the second " taking and driving " offence and fined £50 for the second driving while disqualified offence. He was disqualified for driving for three years. His age is not stated, and the report makes no reference to any special reasons why the court thought that fines would be an adequate punishment for the offences of driving while disqualified (*see* s. 7 (4) of the Road Traffic Act, 1930). It can only be hoped that having for over five years to pay £1 per week from his wages will be an adequate reminder to this offender that the law will not tolerate conduct such as that of which he was guilty, and that the probation officer under whose care he will be will be able to induce him to keep on the right side of the law in future.

Road Racing

One of the few offences which involve automatic disqualification on conviction, unless the court finds special reasons to order otherwise, is that created by s. 13 of the Road Traffic Act, 1930, " Any person who promotes or takes part in a race or trial of speed between motor vehicles on a public highway shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding £50, or to both such imprisonment and fine."

So far as we are aware such offences are exceedingly rare and we are interested, therefore, to read a report in *The Western Daily Press* of August 27 of a case in which a defendant, a young farmer of 22, was convicted and fined £20, and was disqualified for two years, for such an offence. He was also fined £30, with £8 10*s.* costs, for driving at a dangerous speed. The driver with whom he was found to have been racing was killed when his car left the road and burst into flames. The allegation was

that at a dance the man who was subsequently killed challenged the defendant to a six-mile road race for a bet. It was said by witnesses that the defendant agreed with reluctance after the other driver had suggested that he was scared. The defendant said that although he accepted the challenge he did not in fact race against the other driver but travelled 40 to 50 yards behind him even though at times he could have overtaken him: he said that he had no intention of racing anyone either on the outward or the return journey. His defence was not accepted, and he was found guilty. The tragic result of the "race" shows the danger of such adventures. In this case it was one of the participants who was killed; it might well have been some other road user who had no connexion with, nor interest in, the race.

Standing Orders for Contracts

When s. 266 of the Local Government Act, 1933, removed the former differences in the law relating to contracts made by different types of local authorities outside London, it provided that contracts in future should be made in accordance with standing orders of the local authority. Each local authority was given wide discretion about the contents of its standing orders, apart from certain matters which the section said must be provided for. In the interval between the passing of the Act and its coming into operation, model standing orders were issued from the Ministry of Health for use under s. 266, and our information is that these have been widely followed by local authorities of all types. They are to be found in *Lumley's* notes to s. 266, and when the London Government Act, 1939, brought the law relating to the contracts of local authorities in London into line with the provincial law, the model standing orders became appropriate for the guidance of local authorities in London. A revised version of these model standing orders was issued in August, 1957, and is available from H.M. Stationery Office at a cost of *6d.* net. The most important alteration in this version is in model standing order 11, which gives effect to the latest fair wages resolution passed by the House of Commons. Section 72 of the Housing Act, 1936, re-enacting earlier provisions, required the housing contracts of local authorities to contain a fair wages clause, satisfying whatever fair wages resolution of the House of Commons was for the time being in force, and it has for long been the practice of local authorities to include a similar provision in all contracts. The change in the present version of the model standing orders in this respect is a change of form.

Model standing order 6 has raised from £50 to £100 the amount of a contract which may be made otherwise than in writing, and model standing order 7 suggests £250 instead of the former £100 as the amount of a contract for the execution of works or for the supply of goods or materials above which security for due performance will be required. Model standing order 3 raises from £100 to £500 the value of the contracts which need not be preceded by public advertisement for tenders, with a similar increase from £1,000 to £5,000 in the amount which calls for advertisement in specialized trade journals. These increased figures reflect the change in money values which has taken place in 20 years. We have noted with some interest that standing order 8 still requires that goods and materials shall be of United Kingdom origin, or produced in the British Empire. When this model standing order was first published it met strong criticism from some local government officials, who were concerned to buy in the cheapest market. We have no information about the working of the standing order since the war. It contains the words "so far as practicable" and it may be that local authorities generally have been content to assume that it was not practicable to use Empire materials where foreign materials were preferred by their officers. Where this standing order is in force a point of interpretation may arise which would not have arisen in 1933—are goods produced in the Irish Republic or in India to be regarded, for the purpose of the standing order, as produced in the British Empire? We do not know the answer, and perhaps the draftsman of the new version of the model standing order was wise to overlook the point.

Fixed Price Tendering

Reference to the model standing orders for the contracts of local authorities reminds us of an intimation sent to local authorities a few weeks earlier, on the subject of building and engineering contracts. The model standing orders require every such contract to specify amongst other things the price to be paid, with discount or other deductions, and also require that before entering into such a contract the council shall obtain an estimate from their engineer or a consultant. Nothing is said about fixed prices, and a practice has grown up of inserting in contracts an express provision under which certain increases will automatically be passed on to the local authority. It was stated in the House of Commons in 1957 that an experiment had been made over a period of 12 months, with government contracts on a fixed price basis. After consultation with representatives of the building and civil engineering industries, the Government have decided that all their own contracts for this sort of work are to be tendered for on a fixed price basis, provided that the estimated contract period is not more than two years. It is being suggested that the nationalized industries should follow the same course, and the Minister of Housing and Local Government has recommended it to local authorities. This course involves the assumption that the work will have been thoroughly planned in advance; in other words, that the contractor will not be exposed to requests for variation in matters which could have been foreseen. The Government expressed the hope in the House of Commons that this policy, followed throughout the four sectors comprizing private industry, nationalized industry, the Government, and local authorities, would contribute to stabilizing costs and prices. Its immediate effect may be some increase in the amounts of tenders, since contracting firms will in effect be insuring themselves against increases of their costs which are not within their own control. The experiment is, however, worth making, as one way of attacking the inflationary spiral.

No Objection

Our article at p. 547, *ante*, upon the sacredness in English law of highways, however mean they be, prompted a reader to send us a cutting from the *West London News*, reporting a question and answer at a meeting of Westminster city council. The question related to Douglas Place, which is a short alley, some six *ft.* wide at most, linking Douglas Street to Vauxhall Bridge Road. The latter is a main artery of north-south traffic; Douglas Street runs parallel, separated from the main road (we are told) by a double row of offices or warehouses. Our correspondent tells us he has known the area for more than 40 years, and constantly walked through Douglas Street; Douglas Place has existed as long as he has known the area, but he does not remember ever walking through it. At the council meeting it was said that a person doing so would

save 55 *yds.*, as compared with using the nearest ordinary street. Douglas Place is, therefore, not important in itself. None the less, it is conceded to be a highway; it can not lawfully be closed against the public except by one or other of the statutory processes, and the city council have the same duty to protect it from unlawful closing as they have to protect any other highway. So much seems to have been common ground at the council meeting, when the chairman of the traffic committee was asked to account for its having been closed in fact: our correspondent tells us that at each end a locked door like an ordinary house door has been fixed. The chairman told the council that before the second world war the council agreed to apply to the justices for the permanent stopping up of Douglas Place, in order that the site could be incorporated in redevelopment proposed by the owners of the adjoining buildings. The outbreak of war led to the abandonment of this scheme, and the application to the justices was not made.

In June, 1955, however, the traffic committee "raised no objection to the erection of gates across each end as a temporary measure. [The owners wished to develop, but were still negotiating for some adjacent land which they had agreed to throw into Vauxhall Bridge Road.] . . . It would be premature for Douglas Place to be closed by legal order until the developers are in a position to dedicate . . . land required for widening." The chairman added that "tacit consent was not a procedure by law," and the matter dropped, further discussion being ruled out under the council's standing orders.

The statement that legal procedure would have been premature probably means that the council contemplated development such as would be appropriately dealt with under s. 49 of the Town and Country Planning Act, 1947, referred to at p. 548, *ante*. This can be understood; what is difficult to understand, on the comparatively slender information obtained by question and answer, is how the traffic committee came to "consent tacitly" (or to "raise no objection," whichever is the more appropriate description) even to a "temporary closing," by the owner of the subsoil and adjoining buildings. This temporary closing has now lasted for more than two years. Part of the explanation no doubt lies in another statement by the chairman, that Douglas Place was being misused in 1954 by hooligans and prostitutes; the police were doubtless pleased to see it rendered unavailable, and the fire brigade, who raised no objection, would not be troubled by a wooden door if they had to run a hose pipe through the alley.

Use by hooligans and prostitutes is, however, not a legal ground for closing a highway even by due process, and cannot justify putting doors across, without recourse to quarter sessions or to any authority having power to close highways.

Upon the information given in the newspaper (which is information given at a council meeting by a committee chairman) the episode looks like one further indication of a contempt now entertained by public authorities for public rights, especially the right of a person on foot to unmolested use of highways.

THE WOLFENDEN REPORT

A REVIEW OF THE MAIN RECOMMENDATIONS

The Departmental Committee on homosexual offences and prostitution was appointed in August 1954, and it has been widely recognised that its report* would prove to be a document carrying far-reaching social implications. In the event this belief has been abundantly justified: whatever one's views upon the Report's main recommendations, and upon the reasoning advanced to justify them, no one is likely to dispute their immense significance. We would feel this to be true even in the unlikely event of the report not being followed by legislation, for the document itself is certain to enjoy wide circulation, and its arguments and general tone, coming as they do at a time when sexual ethics and their relation to the criminal law are in any event in a state of ferment, will inevitably set a standard. It is, however, more than probable that at least some of the Committee's recommendations will, sooner or later, form the framework of a Government Bill; consequently the report demands searching study from two distinct, though complementary viewpoints: that of the lawyer, and that of the sociologist.

The Committee's terms of reference were to consider: (*a*) the law and practice relating to homosexual offences and the treatment of persons convicted of such offences by the courts; and (*b*) the law and practice relating to offences against the criminal law in connexion with prostitution and solicitation for immoral purposes, and to report what changes, if any, are desirable. This formal commitment is usefully paraphrased in Chapter II of the Report: "Our primary duty has been to consider the extent to which homosexual behaviour and female prostitution should come under the condemnation of the criminal law." In this article we shall review the report from the standpoint of the criminal law, leaving wider issues for later consideration; but we must emphasize that this twofold approach must not be allowed to obscure the essential unity of the whole problem of the relationship between homosexuality, prostitution, and the criminal law: there is a point at which the public and private aspects of these matters coincide with the overall demands of social health. Not the least important of the many questions which are evoked by a detailed study of the report is whether sufficient regard has been paid to the function of the criminal law as a buttress of high moral standards.

The Committee's most controversial recommendation is that "homosexual behaviour between consenting adults in private be no longer a criminal offence." The age at which one becomes an adult for the purpose of this dispensation is to be 21, and the criteria of the tricky terms "consent" and "in private" are to be "decided by the same criteria as apply in the case of heterosexual acts between adults." As examples of cases where consent might be negatived the Committee instance circumstances of fraud or threat of violence. In any event it will be observed that this proposal would add yet another figure to the substantial list of legally significant ages. The arguments advanced for the adoption of 21 as the age of adulthood will be read with great interest by those concerned in any way with the Ingleby Committee, for, in the words of this report, this is "the age at which a man is regarded as being maturely responsible for his activities."

The committee is not satisfied that all homosexual acts "committed in private by a person under 21" should be the

* Pub. H.M. Stationery Office, Cmnd. 247, 5*s.* net.

subject of a criminal charge: they recommend that the sanction of the Director of Public Prosecutions or of the Attorney-General should be obtained before such proceedings are instituted. With the exception of indecent assaults they recommend that any prosecution for any homosexual offence more than 12 months old should be barred by statute, and they suggest that buggery should be re-classified as a misdemeanour.

The suggestion that gross indecency between male persons should be made triable summarily with the consent of the accused is welcome: the Committee mentions the practice of charging under a byelaw, which is often adopted in order to dispense with the indictable proceedings otherwise necessary under the present law. From the point of view of the courts this is counterbalanced by a proposal that importuning should become an offence in respect of which a defendant is entitled to claim trial by jury: should this become law we fancy a good many defendants will avail themselves of the privilege. Revised penalties are suggested for buggery and indecent assault on male persons. The full offence with a boy under 16 would carry life imprisonment, but buggery or gross indecency committed by a man over 21 with a person between the ages of 16 and 21 would be visited with a maximum of five years imprisonment, and the same offences " committed in any other circumstances " would carry a maximum of two years' imprisonment.

The general purport of these suggestions is thus a notable easement of the impact of the criminal law upon the practising homosexual. Public solicitation and offences against youth are still to attract sanctions—though the effect of the Committee's presentation of the matter may well be to reduce their severity. But what is called " private " homosexual activity is excluded from the scope of the law if the participants are over 21. Whether this substantial concession—should it ever become law—will cause society to underrate the general menace of homosexual conduct remains to be seen. The mere formulation of these recommendations, together with the publicity they have received, may well have some such result.

As regards prostitution the main endeavour of the Committee seems to have been to divert prostitutes from the streets. Prostitution is not in itself an offence under existing law, and the Committee does not suggest that matters should be, or indeed can be, ordained otherwise: " Our impression is that the great majority of prostitutes are women whose psychological make-up is such that they choose this life because they find in it a style of living which is to them easier, freer, and more profitable than would be provided by any other occupation." These are generous sentiments, and what follows is in similar vein. The Street Offences Committee is approvingly quoted: " The criminal law is not concerned with private morals or with ethical sanctions," and a good deal is said to advance the view that what the prostitute does with her client behind her own door is her own business. Is this insistence on the criterion of privacy as wise as at first glance it may seem? It is perhaps worth while pointing out, here and now, that the expression " private morals " does not take us very far. The father who has intercourse with his daughter in his own home is acting very much in private, but the criminal law stretches out its arm to protect the daughter—in other words it says that " private morals " (for the daughter may have even consented) can be very much the interest of the community.

The Committee recognizes the difficulty caused by the expression " to the annoyance of passengers " in the enactments concerning street soliciting: they recommend their repeal. For this the police, and perhaps magistrates, will heave sighs of relief, but the drafting of an appropriate new provision will yet present some problems, as the Committee recognizes in some interesting paragraphs devoted to questions of definition. However, assuming these difficulties are overcome, the penalties for street solicitation are to be increased: the Committee suggests maxima of £10 for a first offence, £25 for a second offence, and three months' imprisonment for a third offence. The Committee thinks that imprisonment is an essential sanction for the constant offender—it may deter some and tend to reform others, since the Committee " believe that the presence of imprisonment as a possible punishment may make the courts anxious to try, and the individual prostitutes more willing to accept the use of probation in suitable cases." At present, " Since . . . the alternative to probation is a fine of 40*s*., the prostitute frequently declines even to see the probation officer." Is this reasoning sound ? It would seem to follow that probation in general only works if the probationer fears that non-cooperation will land him in prison. We doubt very much whether the probation service would find this view very flattering. But whether this interpretation of reasons for accepting a probation order is sound or not, we foresee a considerable increase in the female prison population if this suggestion is implemented. The number of prostitutes passing through the courts is very large: we hope that the implications of this policy will be fully thought out: officers in women's prisons already have a difficult task on their hands: the influx of many short-term prisoners in a highly resentful frame of mind would present problems of an acute kind.

Rather surprisingly, the Committee recommends no changes in the law as to living on immoral earnings with the exception that a landlord letting premises at an exorbitant rent in the knowledge that they are to be used for the purposes of prostitution shall be deemed to be living on the earnings of prostitution, and that an agent knowingly taking part in the transaction shall be similarly deemed. This last suggestion is indeed welcome, though it will not always be easy to obtain adequate evidence for sustaining a successful prosecution. As regards brothel-keeping, the Committee make the interesting recommendation that, on convicting a tenant or occupier, a magistrates' court shall be empowered to make an order determining the tenancy or requiring the tenant to assign the tenancy to a person approved by the landlord.

Such are the principle recommendations of this Report. For the numerous minor changes suggested we must refer readers to the document itself: it emphatically calls for study as a whole. The premises upon which its arguments rest are of vital consequence, and we will be discussing their implications in a later article.

It should be noted that in certain important respects the Report is not unanimous: powerfully argued reservations are made by Mr. James Adair, O.B.E., with reference to adult homosexuality, and by other members on some special aspects of this question. Then, too, there is a reservation signed by the lady members of the Committee on the question of living on immoral earnings. The existence of these reservations serves to underline the necessity for the most scrupulous consideration of the issues to which they relate before legislation is framed. Now that sexual morality is at long last receiving the open attention it should always have had, the country, and those who act in its name, must ensure that discussion is thorough, serious, and conducive to the health and security of the community.

It will be apparent from the foregoing that, in spite of an exhaustive inquiry and a series of firm recommendations clearly designed to be interlocking, the Committee has not succeeded in enthroning logic as the master of the criminal law in the sphere open to their consideration. At many points they emphasize the inviolability of privacy, but, as has been pointed out in a notable leading article in the *Sunday Times*, this principle is, quite rightly, invaded by the law as regards living on immoral earnings. It is this angle of the question which demands further treatment than can be given here. We shall return to it shortly.

G.C.

AS A STABLE YARD

At 120 J.P.N. 258, 279, and 295 we dealt very fully with the law of obstruction of the streets. At p. 296 we summed up the needs of the situation as we saw it. We urged a serious examination of the then existing law to be followed by consolidation and modernization, which would involve a considered decision by Parliament of what measure of obstruction must be accepted and made lawful, and what ought not to be tolerated longer. In the meantime, we urged that the authorities concerned, from Ministers down to highway authorities and police authorities, should remind themselves that the highway exists for the movement of vehicles and pedestrians and for access to abutting property.

We return to the topic because, in an interval of more than 12 months, there has been little to show that any public authority is prepared to take serious steps to abate the nuisance. There has been a deal of talking upon and around sections of the new Road Traffic Act, 1956, especially in relation to parking meters. There has also been plenty of evidence in the shape of letters to the newspapers about some aspects of the nuisance now existing. Speaking last September about the parking meters, the Minister of Transport and Civil Aviation said: "The free right of one man in one large motor car to occupy 80 or 90 *sq. ft.* of the highway in the inner zones of our cities has got to stop, and I intend to see that it is stopped."

More or less on the same day, the Prefect of Police of Paris declared his intention "to chase from the centre of Paris the vehicles which station themselves there from 9 *a.m.* to 6 *p.m.*" These vehicles were (he added) the primary cause of tying up traffic in the central area. We have no information about steps taken in Paris to give effect to the Prefect's intention. So far as can be seen, nothing worth mention has been done so far in London or elsewhere in Great Britain, to give effect to the brave words uttered in September, 1956, by the Minister of Transport and Civil Aviation.

A few cases have been given wide publicity, in which the metropolitan police have used their new power to remove obstructive vehicles. Letters to *The Times,* and personal observation by our own correspondents who have chambers in the Temple or offices in central London, indicate that the city police and the metropolitan police, on the whole, ignore the evil. For example, the part of the Embankment where the defendant in *Solomon* v. *Durbridge* (1956) 120 J.P. 231, had parked his car for several hours, has throughout the following year and a half been still obstructed by cars, left by the same people day after day, as if that case had never been before the courts. Early in 1956 there was an outbreak throughout the busy parts of central London of brightly coloured notices. The inscriptions vary, some forbidding loading or unloading at all times of the day, some on certain days; the most usual prohibition is parking between 11.30 *a.m.* and 6.30 *p.m.* from Monday to Friday. These notices are treated with contempt by the drivers of private and commercial vehicles, and equally so by the police. We are told by a correspondent, whose office is near the city hall of Westminster, that in streets within a few minutes' walk from that point, where these yellow notices have been lavishly put up, both sides of the street are nevertheless used as before; private cars whose numbers our correspondent recognizes are left there all day and every working day. Vans unloading goods habitually stand close to the notices which forbid loading or unloading; if they are prevented from reaching the kerb by the line of private cars, they unload in the middle of the carriageway. This blocks all other traffic, and the emergence of cars in single file from side streets is a major cause of interference with the time table of buses. In some of these streets cars and trade vans are regularly allowed (and sometimes directed by the police) to park upon the footways, a practice which is totally illegal. It is indeed specifically forbidden by at least three statutes: the Highway Act, 1835; the Metropolitan Police Act, 1839, and the Road Traffic Act, 1930.

None of the parking meters upon which the Minister of Transport and Civil Aviation and the police have professed to pin their hopes has yet appeared. When the city council of Westminster was first approached and invited to co-operate last year, it expressed willingness, provided the law would be enforced. Later the same council apparently had second thoughts, for it pointed out to the Minister that any great effort to enforce the present law might be detrimental to some trading interests in the city. The latest information in the newspapers is that, after an abortive proposal which was found to be open to legal objection, parking meters are now to be installed in a part of Mayfair and may be working in 1958. This at best is playing with the mischief; it does not touch the streets where the authorities concerned have allowed parking to become a public scandal. It will be interesting to see whether the parking meters prove another waste of money, like the expenditure (which must have been substantial) upon the yellow notices installed last year and many of them repainted this year, which motorists and the police have evidently agreed to treat as meaningless.

One reason for inaction seems to be confusion between different types of parking. The police say they cannot be everywhere at once, and (apparently) that if they move against parking in one place there will be complaints that they have not behaved impartially, because in some other place they have not acted.

Our primary purpose in this further article is accordingly to examine the different types of parking, not so much with reference to their legality as with reference to the facts of place and time. There is an almost universal agreement that the practice of parking vehicles on the highway has got out of hand and there are constant complaints in Parliament and the newspapers, but when these are looked into it is all too often other people's parking that is wrong; the complainant has a vehicle of his own and feels entitled to leave it in some place which is convenient to him. This article was nearly finished when two further letters about parking were printed in *The Times* of August 12 and 14, 1957. Sir Henry Tizard (of whose letter we shall speak below more seriously) complained that when he came to London he could not drive up to his club, because of cars parked in front of it. To this a reply came from an address in London: supposing one is lucky enough to drive up to the front of one's club, what on earth can one do with the car? There may in the particular case be more than one answer: Sir Henry's club according to *Who's Who* is the *Athenaeum,* outside which there is some space available without blocking the front door; Sir Henry spoke of driving to the club, but not necessarily in a private car (he might travel by train to London and then use a cab), and it may be that even if he arrives in his own car he does not drive himself. Even so, these two letters neatly illustrate what we have just said: it is other people's cars which do the

mischief. Incidentally, the letters also show how large a place in the picture the owner-driver fills.

First, then, there is the type which is most simple and perhaps most harmless, we mean the vehicle standing outside its owner's house in a residential road or square, where there is no traffic except to neighbouring houses. This may be for a short time, when no complaint arises. When it is permanent, or nearly so, it takes place (typically) because the owner of the car has no room to provide a garage, and is unable to obtain garage accommodation within a reasonable distance at what he considers a reasonable price. We have more than once spoken disapprovingly of this; it means that a man buys himself a car and throws upon the public at large the burden of accommodating it. Where through traffic is unaffected, such conduct means at least inconvenience to neighbours. Applying the test of the Master of the Rolls in *Original Hartlepool Collieries Co.* v. *Gibb* (1877) 36 L.T. 433, which embodies the whole principle of law upon the subject, it can be seen that the car owner in these cases is often committing a civil wrong as well as an offence against the statute law. An aggravated form of the civil wrong is found in many residential areas of London and some other towns, where frontages are short. In such streets and squares a motor car cannot be left outside its owner's door without obstructing entrance to the front door or the tradesmen's entrance of another house, thus coming fairly and squarely within the judgment cited. In the House of Lords debate from which we quoted last year, a peer related how he had been unable to reach his own front door with an invalid brought in an ambulance. An occasional correspondent contributed an article at p. 575, *ante*, describing the condition of the London square in which he lives. His experience is not at all singular. In *The Times* of October 25, 1956, a London correspondent spoke of the regular parking of other people's cars in a position which prevents his using his own garage. Miss Rose Macaulay advised car owners to put temporary barriers in the carriageway, until the space in front of their doors is needed for their own cars, and suggested that this was no more illegal than the placing there of another person's car.

It is an everyday occurrence for householders in such a situation to be obliged to thread their way between other people's cars from a cab unable to draw up to the kerb. Our correspondent speaks of the trouble for the dustmen; similarly many a householder knows what it is to be obliged to carry a suitcase the length of several houses, because he has been set down in a space left further on. The whole position is most aggravated where a nineteenth century house has been divided into flats. The Master of the Rolls, giving judgment in the case last cited, contemplated that he and his neighbours in Portland Place would all have carriages; he recognized that somebody would sometimes give a party, and distinguished those occasions from the normal practice, when not more than one carriage for each house would be in the front street. Most of the houses in his day were occupied by substantial families, but in similar residential areas the houses are now divided, if they are still residential, and there may be half a dozen owner-drivers in one house.

Secondly, there is the similar case of the trader who assumes a right to leave a van or other vehicle in the street outside his business premises. If it is a shopping street the extent of the abuse is likely to be less because the trader does not wish possible customers to be obstructed. There are, however, trades and professions where this consideration does not arise and here it is quite common to find a vehicle left all day, ostensibly because its owner may want it in a hurry. We do not in the least resile from what we said at 120 J.P.N. 656 and in other notes and articles, about using the highway as a garage, but when all is said these types of parking by a person close to his own premises do less harm than the other types to which we shall come next.

A third case which causes much annoyance to occupants of private houses, occurs when commercial vehicles are left in a street away from the premises of the vehicle owner, a street in which the vehicle owner has not even the pretence of a claim possessed by residents and business people in the street. Our contributor at p. 575, *ante*, reminded readers that there are residential squares which in London are regularly used through the night and at weekends for large trade vans, some coming from the provinces and others from business premises in other parts of London. The reason may be, in this last case, that the driver lives near the place where the vehicle is parked; it suits him to drive home rather than go by public transport, and presumably it suits his employers to let him start a journey from near his home instead of from their premises. It may be true in some such cases that the vans thus left do not obstruct through traffic, and they may not greatly interfere with residents, but there are plenty of illegal obstructions which can do damage to the surface of streets, and it is unfortunate that, as appears to be the case, the metropolitan police profess themselves powerless.

It might well be that residents, or the estate owner of a London square, could take proceedings in this group of cases, but this is hardly a practical remedy when complaint has been made to the police and the police have declined to act.

The three types of parking with which we have so far dealt are distinct, but they have the common feature of not (typically) producing more than local harm. The resident and the business man who have left a car outside a house or the owner's business are not intruders. The van driver in the third case is an intruder, but, because he has placed the van in a residential street, he can at least say with the other two that his obstruction of the highway does not ordinarily amount to a wrong inflicted upon many persons.

We come now to the fourth type, namely, parking in a highway, which is a traffic route or a feeder into a traffic route, by persons who do not occupy abutting premises. The stopping of a vehicle, even in a business street, is not in itself an offence against the Highways Acts and similar statutes which we analysed in our previous articles. In some streets in towns it may nevertheless be a statutory offence to stop at certain times of day, even for loading and unloading, which under the law of torts or under the older statutes would within reason not be held unlawful, and the same may even apply to the instance (often quoted as an innocent stoppage) where a man leaves a vehicle at the kerb while he makes a single purchase in a shop. Apart from these new statutory prohibitions, nobody would dream of punishing the man who pops into a tobacconist's for cigarettes, and is back in his car almost as quickly as if he had got out to post a letter. But from this there are invisible gradations, to the man who leaves his car for two hours outside a restaurant while he has a meal. The point we are making is that those who have business in the central area of a town, and leave their cars while they transact a single piece of business, range from instances which it would be unreasonable to interfere with, to a good deal which is quite outside any legitimate use of public streets or even country roads.

We have not yet mentioned the case of the special case of the delivery van. In London this has produced a difficulty

of its own, largely because of its size and of the fact that an exceptionally high proportion of business premises in central London have no secondary access. It has thus come about that the prohibitions nominally imposed on waiting vehicles by the yellow notices have in some streets dealt specially with loading and unloading. Logically this is perhaps no more than a special case of halting for a temporary purpose; and there is more to be said in its defence than on behalf of the motorist who leaves his car, for example, while he does his personal shopping. This for the reason that goods being delivered to shops or collected from warehouses are commonly bulky, so that everyone's convenience demands that the vehicle collecting or delivering shall be brought to the point where the handling is done. By comparison, it would be much easier for nine out of 10 persons, who now use a car for shopping, to carry what they have bought to some place where the car could wait, without causing obstruction of the highway or inconvenience to other people going to the same shop or neighbouring shops.

The van man delivering or collecting goods may be committing an offence, but his conduct is venial by comparison with the conduct of the motorist who has a day's engagement, or even half a day, and leaves his car. An illustration of this was mentioned in a Note of the Week a year ago; a solicitor who left his car in the street near the Old Bailey for half a day while he was inside with his client.

Worst of all is the motorist who comes regularly to his place of business in a town by car, in preference to other means of transport, and leaves his car either outside his business premises or (more often) in some neighbouring street. Of this also we gave an illustration in an earlier article: a resident in one of the inner suburbs who drove daily to his office in the neighbourhood of Lincoln's Inn, and was bitterly aggrieved (according to his own letter in *The Times*) because the police tried to keep some space in Lincoln's Inn Fields free for cars bringing clients up on business.

Sir Henry Tizard's letter, *supra*, speaks not only of access to London buildings, but of misuse of a country road beside which he lives in Hampshire, by which misuse an ancient right of way for foot passengers has been destroyed. This is a special case of the general evil, of treating the highway (and, in his case, a pathway adjacent to but not part of the modern highway) as being a free standing place for vehicles not connected with the neighbouring premises. We infer that the road in question is a resort of mainly summer visitors, but the same thing, in principle, occurs on every working day in every town, and is the greatest single cause of traffic congestion and general inconvenience, to all motorists (other than the culprits) amongst others. Not many owner-drivers would, in so many words, echo the eminent business man who, at a meeting in London, remarked that his activities were more valuable than those of a bus load of ordinary people, and if his car was left standing where it prevented the passage of a bus there was no harm done. He was, however, not essentially more selfish than thousands of other persons who drive their own cars into towns; because they drive themselves, there is nobody to take the car away when they have alighted. Rather than pay for garage or parking space, they consider it better business to use the highway for the purpose. It will be said, and truly, that garage and parking space off the highway is entirely inadequate in London, and in most towns. But even where it does exist, it is a matter of universal observation that it is not fully used, either because motorists will not pay or because they will not walk to it, and it evidently has not occurred to this great army of obstructionists, either that the insufficiency of proper parking space is a reason for using public transport, or that by their own conduct in blocking so large a proportion of town streets they are hindering their own as well as other people's movement.

We shall have more to say below, when speaking of enforcement, about the special prohibitions which have grown up from practical necessity in the last few years, but will first continue our analysis of the different types of parking, by passing from the person to the place. There are streets of which the primary function is to form the access to business premises, especially shops, and streets which carry a large proportion of through traffic, in the broad sense of traffic not connected with premises in the street. Often a street falls within both these classes. Since so many English towns have grown up along the sides of highways older than the town, almost every large provincial town has one or more streets carrying through traffic, which the inhabitants use also for shopping and for other purposes of daily business, which require members of the public to be going in or out of premises in the street. Oxford, of which we have written much, supplies a conspicuous example of a main street which is also a main thoroughfare, although it happens that the High Street is not essentially commercial. Chester, Durham, Canterbury, are among the many ancient towns where through traffic flows incessantly along a route which is the main shopping centre. In London this problem occurs in aggravated form. In London also, and to some extent in most provincial towns, streets of the kind just mentioned are usually linked by other streets, which did not grow gradually and naturally like the main arteries but were laid out deliberately to perform a subsidiary function. These last mentioned streets often have narrow footways (of which more below) and carriageways of no greater width than was necessary to give access to abutting premises, or to enable a few horse-drawn vehicles to pass from one main street to another. It is in these streets especially, though not exclusively, that the yellow notice boards appeared in numbers last year and have been ignored, but there are many more subsidiary streets in which the responsible authorities have not even professed to place restrictions upon parking. In the business areas of inner London there are miles of streets, capable of carrying two lines of moving vehicles and still allowing access to warehouses and similar premises, in which traffic is reduced to single file and no vehicle can draw up at a warehouse, because owner-drivers (principally), and also vans having no connexion with the street, have been left in a continuous line along both sides.

What then do we suggest ?

Our long term suggestions were made at the end of our articles last year and are restated at the beginning of the present article. But the evil, unchecked, has reached a pitch which demand short term remedies as well.

First among these we place elementary instruction of the police upon fundamental points of highway law, which they have been allowed (or encouraged by higher authority) to forget. Let them cease informing members of the public, who ask for their assistance, that they can do nothing unless there is obstruction—when flagrant obstruction has been pointed out to them. In other words, let the constable on the beat be made to realize that statutory or common law obstruction of the highway, and unnecessary obstruction within the meaning of the Motor Cars (Construction and Use) Order, 1955, do not mean only obstruction of moving vehicles.

Pedestrians have equal rights; occupiers of adjacent property have a claim to be protected, in obtaining access to their premises. Sir Henry Tizard's letter, to quote once more from *The Times* of August 12, says:

"The excuses of the police are: (1) that they are too short-handed to deal with all branches of the law (which is true); [we suspect that "branches" here is a misprint for "breaches"]; (2) that conditions are the same all over the country (which is nearly true); and (3) that their task would be easier if actual obstruction could be proved. What they mean by this is that if the cars could be proved to be obstructing other cars, they could prosecute. The obstruction of pedestrians is apparently of no account. They take no notice of the remarks of the Lord Chief Justice. So things will remain as they are unless public indignation is aroused."

We have referred in a Note of the Week earlier this year to the excuse that the law is not enforced anywhere (or hardly anywhere), because it cannot be enforced everywhere at once. This is pathetic as well as apathetic. It is much as if the Commissioners of Customs and Excise instructed their staff not to open any traveller's luggage, because it was impracticable to examine every trunk and pack, or as if London Transport gave up the checking of passengers' bus tickets by their travelling inspectors, because the latter cannot board every bus and look at all the tickets every day. In these parallel cases sample checks are made: if similarly the police prosecuted (say) an owner-driver who had left his car unattended against a bus stop sign in Regent Street at noon, and next day a carman who left his lorry on the illegal side of Panton Street while he carried several packages round the corner into another street; if they would on the third and fourth days descend upon a "unilateral" street where "bilateral" parking has remained habitual, the same small team of constables could cover a great part of the West End of London in a month. The culprits would not know which street would next be visited, and at least some of them would begin to wonder whether, after all, it paid to flout the law for six or eight hours at a time. If it is true, as alleged by one of the correspondents who followed Sir Henry Tizard in *The Times*, that magistrates are imposing such small penalties that it pays motorists to break the law, even when they are prosecuted, then (no doubt) there is a need for magistrates as well as the police to be reminded of the rights of the general public. But we are not convinced that this allegation is well founded; in so far as it may be, we think this is because the motorist can so easily say "Why pick on me?" while the magistrate himself, if he goes on foot through central London, must have had it brought home to him that the obstruction provisions of the Highway Act, 1835, and other Acts, and of the Motor Cars (Construction and Use) Order, 1955, are largely a dead letter. If the executive branches of the public service woke up to their duty, we do not believe the judiciary would fail to support them: witness *Solomon* v. *Durbridge, supra,* and a letter from one of the London courts at 120 J.P.N. 603.

It is worth reminding them that under the Order of 1955 a fine of £20 can be imposed—seeing that one complaint made is that the derisory fine of £1 has no deterrent power.

Next the flagrant illegality, for which the police must bear the blame in London, of leaving cars upon the footway must be stopped. This is not merely an infringement of the law, and not merely an inconvenience to foot passengers; there are streets in central London where the practice causes constant danger, by forcing foot passengers to step out into moving traffic.

Then again, in streets where parking does take place on both sides, or even on one side, vehicles must not be allowed to halt in the carriageway to deliver goods. Frequently as many as six vehicles can be seen in line, stopped by this cause in a lane only available for single file, because the street is only three lanes wide. The grotesque spectacle is not unknown, of heavy lorries backing out into a main traffic stream, from such a single lane in which they had been trapped. Almost the same position can occur where the street is four lanes wide, if the two beside the kerbs are wholly occupied by standing cars, and a goods vehicle starts unloading in the middle—there is then one lane only, available for use, and often this is being contested by vehicles going in opposite directions.

No new powers are required, to enable the police to stop all the practices we have just mentioned; if they did so some mitigation, at any rate, of the worst existing evils would result.

A practice which does not produce such widely spreading circles of mischief, but should be stopped forthwith because it amounts to deliberate misuse, is the placing of commercial vehicles for long periods (overnight or over the week-end) in streets upon which the owner has no claim, whether these are the residential streets or squares about which we have, as mentioned above, received complaints, or are the quiet streets in business areas. In the same class (because the owner of the vehicle cannot put forward any pretence of a right to do it) we should place the leaving in the highway of cars sheeted up for long periods while out of use, and the use of the highway for taking cars to pieces and reassembling them for sale or otherwise. The practices are in flat defiance of the law as laid down by Lord Ellenborough in *R.* v. *Cross* (1812) 2 Camp. 224, where he said: "The King's Highway is not to be used as a stable yard."

Any attempt to check the number of cars brought into towns by persons who prefer this to public transport belongs to the long term policies, as does the problem of parking permanently in the street outside the vehicle owner's own premises.

But there is at least one short term item to be mentioned, besides those we have already given, and this the most urgent and most vital. It is that, where an express prohibition of parking has been put in force, that prohibition shall be honoured. We do not question the need for fines which will make the offence unprofitable, but the root of the evil here is that proceedings are not taken. Leaving on one side for the moment the question of prosecutions like that in *Solomon* v. *Durbridge, supra,* the yellow notice boards in central London ought to be either obeyed or taken down. Leaving them to stand (and repainting them where necessary) whilst allowing them to be ignored in practice does nothing but bring the law into disrepute.

ADDITIONS TO COMMISSIONS

CARDIGAN COUNTY

David Isiah Devonald, School House, Llandygwydd, Cardigan.
William Ellison, Tynyglog, Brymor Road, Aberystwyth.
William Ivor Evans, Caerfelin, Aberporth.
Mrs. Mallie Davies-Jones, Tremle Bungalow, Talgarreg, Llandyssul.
David Lloyd Llewellyn, Gwynfa, St. Dogmaels, Cardigan.
Thomas Lloyd, Brynhyfryd, Buarth Road, Aberystwyth.
John Price Thomas, Glanwyre, Sea View Place, Aberystwyth.

CORNWALL COUNTY

William Ley Daniel, Ley, Upton Cross, Callington.
Arthur Nelson Hosking, Boscawen Rise, St. Buryan.
Albert Henry Phillips, Pencorse Manor, Summercourt.

MISCELLANEOUS INFORMATION

THE SUTTON DWELLINGS TRUST

The Sutton Dwellings Trust was founded under the will of William Richard Sutton and in the 47 years up to December 31, 1956, had developed 24 estates involving a capital expenditure of over £4,000,000 and providing 7,993 dwellings in London and other parts of the country. For some years it has been the practice of the trustees to provide, wherever possible, special accommodation for old people in one-room and two-room flats. In their important development at the Miles Mitchell Village, Crownhill, Plymouth, there are 126 single-storey houses reserved exclusively for old people. In accordance with the scheme under which the trust operates preference is given to applicants needing better accommodation who are in poor financial circumstances and (in the case of the larger dwellings) whose family includes several children. It is the policy of the trustees to provide certain recreational amenities on their estates where practicable, such as institutes, pavilions, tennis courts, bowling greens, children's playgrounds with equipment and sports fields.

The management of these buildings and of the sports facilities has in most cases been handed over to associations formed by the tenants on various estates. The original conception of the Miles Mitchell Village scheme was to include provision, by agencies other than the Trust, of a rest home or sick bay, a non-residential club and a hostel. Part of the site reserved for these buildings has so far been left undeveloped, but the Trustees reluctantly came to the conclusion that there was no prospect of the communal buildings being built so, as noted in their last annual report, they have decided to complete the village by providing further accommodation as well as a club-room for the use of the residents.

COMMONWEALTH SETTLEMENT ACT, 1957

This Act continues for another five years the policy which was established by the Empire Settlement Act, 1922, and continued by later Acts. It gives the Government the necessary financial authority to enter into agreements with other Commonwealth Governments or with private organizations to encourage emigration from the United Kingdom to the Commonwealth.

It was stated by the Under-Secretary of State for Commonwealth Relations (Mr. Alport) in moving the second reading of the Bill in the House of Commons, that of the 140,000 persons who emigrated to Australia under the assisted or free-passage scheme between 1951 and 1956, 56,000 were wage-earners and 84,000 were dependants. About one-sixth were average age 45. The Government propose to repeat the previous financial limit of £1,500,000 annually in assisting emigration but the expenditure has not reached this figure during the past five years. Mr. Alport referred to the agreements with eight voluntary societies under which they send an average of 250 children each year to homes and schools in Australia. The Government makes a small contribution towards their outfitting and maintenance until they reach the age of 16. The Australian Commonwealth and State Governments also make contributions to their maintenance. He paid tribute to the kindness and devotion of the many people who have operated these organizations who, in his view have thus been able to give the children in their care a chance of what might appear to be a better life than they would have if they stayed in Britain. Referring to criticisms of the arrangements which were made in the report of the Fact Finding Mission which visited Australia last year (as reported in our issue of December 29, 1956), he said that these had been brought to the attention of the Australian authorities who were arranging for all the homes to be reviewed. He said the Government would naturally pay attention to the results of this review before making fresh agreements with the organizations in this country. Moreover the organizations have voluntarily undertaken to supply fuller information than has been the case in the past about the arrangements which they are able to make and to allow the Children's Branch of the Home Office to inspect all their arrangements in this country. Several members, in the course of the debate, commended the arrangements made by the Big Brother Movement under which youths who have emigrated from this country have done exceedingly well.

At the end of January, 1957, there were about 23,000 applications for assisted passages to Australia covering about 55,000 persons; of these some 6,000 applications covering about 15,500 persons were being actively considered. The remaining 17,000 applications related for the most part to persons who had not yet obtained nominations from persons in Australia guaranteeing accommodation and were not therefore yet accepted for assisted passages. The number of applications for free passages to New Zealand then under consideration was 1,830. In addition there were 2,592 persons who had been selected under the New Zealand free passage scheme and were awaiting transport.

CARLISLE COUNCIL CHAMBER

Messrs. Charles B. Pearson & Son, of 24 Loxford Street, All Saints, Manchester, have won the competition for designing the new civic buildings for Carlisle city council.

At a total estimated cost of £616,984—£509,362 for municipal offices and council chamber, and £107,622 for an assembly hall—the design provides for a ten-storey, 120 *ft.* high block to house the municipal offices; a detached octagonal council chamber in the centre; and a 1,000-seater assembly hall at the southern side. The municipal block will be connected to the council chamber by a two-storey building housing the "rates hall" with the civic suite over it.

The design for the office block is in contemporary style, of reinforced concrete faced with thin slabs of Portland stone and panels of local red sandstone.

The council chamber will also be of reinforced concrete, built on stone piers with a copper roof, and the assembly hall will be a steel framed building on the first floor with glass and local red sandstone panels.

Professor W. B. Edwards, professor of architecture at Durham University, who was the assessor for the competition, reports that Messrs. Pearson's scheme will be a positive step forward in design and a dignified essay in the contemporary manner, while also harmonizing admirably with the local characteristics of the city.

CITY OF WORCESTER: CHIEF CONSTABLE'S REPORT FOR 1956

Although the actual strength of this force increased by three during the year to a total of 97 there were still 19 vacancies, the authorized establishment being 116. In these circumstances members of the force are still required to work a 48-hour week. It is hoped that if the strength can be increased to 104 (the authorized establishment before September, 1955), it may be possible to allow one additional rest day per fortnight. The decentralization of the city's population, with the building of housing estates in outlying districts, has led to much greater demands on the manpower of the force. The full authorized establishment will be necessary to police the new areas satisfactorily. With this problem to deal with it must be disappointing to the chief constable to get only five recruits from 38 applications. Fifteen did not pursue their initial inquiry, three were below height, two medically unfit, five below educational standard, three were rejected because of local connexions and five were unsuitable for other reasons.

Although the housing position of the force generally gives cause for satisfaction there are several married officers urgently needing accommodation, and there is the probability of a number of younger men marrying in the near future and needing accommodation. It appears, therefore, that it may be necessary to consider building further police houses. There is no doubt that with the varying hours of duty which the police have to perform, good housing conditions are essential to ensure a contented force.

There were 952 reported crimes but the number accepted as crimes was 736 and of these 483 were detected. Alleged thefts of bicycles (173) accounted for a considerable proportion of the "no crimes" (114). It seems that Worcester has its full share of people who borrow other people's bicycles without authority, a matter about which we have written in Notes of the Week. One hundred and thirty-five adults and 44 juveniles were prosecuted for indictable offences and 43 other persons were cautioned by the chief constable or by senior officers. In addition 33 persons dealt with outside Worcester asked for 46 offences committed in that city to be taken into consideration. There was a welcome drop from 109 to 33 in "offences against the person" crimes, there having been no recurrence of the gross indecency offences which contributed largely to the 1955 figures.

Thirty-four fewer people were prosecuted in 1956 for non-indictable offences, the total being 621. In addition, 259 persons were cautioned, 222 of them for Road Traffic offences. Such offences also accounted for the largest number of prosecutions. In these cases the figures were similar to those for 1955, except

that there was a noticeable increase under the heading "obstruction by mechanically propelled vehicles." The chief constable comments on the rather large number of prosecutions for allowing chimneys to be on fire, 91. Ninety-one such offences out of a total of 621 does seem a high proportion, but it is not a new feature for Worcester. Last year's number was 98. What is there peculiar about the chimneys — or the inhabitants — of Worcester which leads to so many chimney fires?

The total number of reported accidents was 1,120, 162 fewer than in 1955. There has been no fatal accident to a child under 15 during the past three years and although in 1956 47 children under that age were injured, this was 20 fewer than in 1955. One hopes that this is due to the efforts to train children in road safety and to the "Mind that Child" campaign and other exhortations to drivers to be particularly careful where children are concerned. In addition to the 47 children injured there were 285 persons over 15 who were injured, and six were killed. The corresponding figures for 1955 were 311 and six.

RECEIVERS IN MENTAL CASES

Local authority officers often, with the permission of their employing authority, are appointed by the Court of Protection to manage and administer the estate of a person of unsound mind and they are therefore concerned with two sets of rules recently made by the Lord Chancellor. The fees which may be charged by the Court have been prescribed from time to time by the Lord Chancellor and under certain of the rules there has been an exemption from fees where the mental condition of a person was attributable to service in World War I. By the Management of Patients' Estates (Percentage and Fees) Rules, 1957 (S.I. 1957 No. 1403 (L. 17)) this exemption is extended to mental patients whose condition is attributable to service in World War II. Another amendment of the previous arrangements is in the power of the Master in Lunacy to make an order dealing with a patient's property without the submission of a formal application for the appointment of a receiver. Previously he could not do so if the property was worth more than £100. This limit has been increased to £300 by the Management of Patients' Estates (Amendment) Rules, 1957 (S.I. 1957 No. 1402 (16)).

ROAD CASUALTIES—JULY, 1957

Road casualty figures for July published on August 29 by the Ministry of Transport and Civil Aviation show that 512 people were killed and 6,151 seriously injured. Compared with July, 1956, deaths increased by 57 and the seriously injured by 281. There were 21,438 cases of slight injury, an increase of 1,668, making a total for all casualties of 28,101.

The Road Research Laboratory estimate that motor traffic on trunk and classified roads was three *per cent.* heavier than in July last year.

Motor-cycle drivers and passengers suffered the heaviest increases in casualties. Altogether 116 were killed and 7,743 injured, making a total of 7,909. This is 978 more than in July, 1956. Casualties among drivers and passengers of other vehicles rose by 732 to 9,565, including 119 deaths.

Total road casualties for the first seven months of this year numbered 148,139. This was 932 less than the total for the corresponding period last year.

COUNTY BOROUGH OF NEWPORT, MONMOUTHSHIRE: CHIEF CONSTABLE'S REPORT FOR 1956

The chief constable reports that "Newport police last year were confronted with more problems than before in every sphere; in brief, people were less inclined to observe the law." He calls for a little more discipline, self-applied or imposed. The force has not been able to increase its strength, the eight recruits being exactly balanced by three retirements and five resignations. Two of these latter were by officers of 10 year's service, one of whom emigrated to Canada. The final figures were authorized establishment 208 and actual strength 178. According to the report, recent improvements in pay and conditions proved insufficient to attract in numbers the right type of man, and keep him in the service. From other reports for 1956 which we have seen experience on this point seems to have varied from place to place, some chief constables being able to report quite optimistically on the recruiting prospects. Conditions in local industry and in other competing occupations in any area must, we assume, affect the position.

Indictable offences increased by 112 to a total of 1,150, wounding, breaking and entering and larceny being responsible for some of the increase. The oft-repeated plea to car owners to lock their cars is repeated in this report. Much stealing from unattended vehicles could be prevented in this way. Juveniles were responsible for 36.5 *per cent.* of all detected crimes, but their percentage of detected breaking offences was as high as 47 *per cent.* Moreover, a number of breaking offences were committed in company with persons aged 17 or over and these do not appear in the juvenile figures.

It was not only in the figures for indictable offences that there was an increase in juvenile delinquency. Prosecutions for wilful damage caused by juveniles increased from 18 in 1955 to 51 in 1956. The total number of offences of all kinds committed by juveniles is shown as 357.

Licensing offences also "occupied more time at court." Prosecutions for drunkenness were the highest since the war, with a total of 260, and proceedings were taken against five licensees and two clubs. One other licensee was warned for infringements of the Licensing Laws. There were, however, fewer prosecutions for "s. 15" offences.

The total number of persons prosecuted for non-indictable offences was 2,854, 511 more than in 1955. In addition 1,777 persons were cautioned. Offences against the Highways Acts and Road Traffic Acts totalled 1,969, which was 346 more than in 1955, and such offences accounted for the bulk of the increase on the previous year's figures. Railway offences also increased, the two totals being 92 and 139 respectively. Drunkenness went up from 224 to 260.

Although no one would wish to accept as inevitable the very large number of road accidents and incidental casualties we do think that it is important to remember the enormous increase in traffic. The Newport figures show that in 1946 the figures for population, motor vehicles registered and driver's licences issued were 94,320, 5,275 and 8,858 respectively. The corresponding figures for 1956 were 105,430, 11,117 and 19,278. Thus the increase in vehicles and licensed drivers is out of all proportion to the increase in population; and all this extra traffic is crowded into practically the same space on the roads as was occupied by the much smaller amount only 10 years ago.

Newport has its attendance centre which provides for the borough and for the petty sessional divisions of Newport and Pontypool. We are not told whether it is considered to be achieving its object. It was set up in January, 1955, and during the following two years 29 boys have attended there.

LEEDS PROBATION REPORT

This excellently prepared report shows that the number of those under supervision in 1956 was only four fewer than in the peak year, 1952. In spite of this rather fewer probation orders were made by the various magistrates' courts: the increase lies partly in a more frequent use of probation by quarter sessions and partly in orders transferred from outside Leeds. It would be interesting to have a table showing the relationship between the number of new probation orders and the number of convictions for serious offences: Mr. Appleyard, the principal probation officer, has supplied such information for the juveniles but not for the adults. The juvenile statistics show an appreciable decline in the use of probation for indictable offences: in 1955 208 probation orders were made in respect of 433 persons found guilty of indictable offences, whereas in 1956 178 orders were made in respect to 419 persons so found guilty.

It may well be that the juvenile courts found themselves faced with the same problem that arises in other large cities: how often is it reasonable to put the same child or young person on probation in the event of repeated offences? Even with juveniles there arises the consideration of the public good as well as the welfare of the individual young person.

Perhaps the most interesting part of the report is that which deals with training of Home Office students. Mr. Appleyard tells us that he considers student training in a dynamic light: "the students were made responsible for the complete supervising of a small, carefully selected case-work. All the students' interviews were done by the students alone and in certain cases every detail of the case was recorded and these records were made the basis of discussion in supervisory sessions which were held twice a week . . . these supervisory sessions were the kernel of the whole system of training and made great demands upon both students and training officers, for it was in these periods that detailed study was made of the behaviour of the probationer and of the work done in the case by the student." Mr. Appleyard considers the results of this practical but intensive approach were well worth the trouble involved to his staff. In these days it is all too easy for probation work to become overladen with theory: practice on the job surely counts for more than a great deal of book work, particularly if the methods and results are helpfully analysed by those with long experience. We like to think that the methods here described are practised in other centres.

After-care is another aspect of the work which comes in for comment: from Mr. Appleyard's remarks it is clear that this involves an exceptional amount of time and energy—the search for accommodation alone can be long and exhausting. One wonders whether the answer to this problem may not lie in closer liaison between the prison and probation services in the weeks immediately preceding release from prison.

LINDSEY COUNTY FINANCES, 1956–57

The difficulties of comparing the financial position of one area with another are well illustrated by a study of the rateable values in each of the Lindsey county districts. County treasurer J. Jolly, F.I.M.T.A., has provided an analysis as one of the tables in his useful booklet summarizing the important features of the county's finances. We observe, for example, that in the borough of Scunthorpe industrial hereditaments have a rateable value of £504,000 out of the total of £1,200,000 for all hereditaments. The rateable value per head of population is £15 11*s.*, and if and when the industrial re-rating proposals of the Government become effective this figure must be considerably increased.

By comparison, in the borough of Cleethorpes the rateable value of all industrial hereditaments is only £1,600 and its rates per head of population £9 19*s.* But the rate levied is at present 20*s.* 6*d.* in Cleethorpes compared with 17*s.* 2*d.* in Scunthorpe, and because of the type of dwelling they occupy these are the figures which interest the majority of ratepayers. In other words information about the rate burdens of average type houses is more illuminating in many ways than comprehensive averages covering all types of property.

In 1956–57 the county council spent close on £6¼ million of which £3¼ million was for education. The cost of other services to be merged in the new block grant was relatively insignificant, the largest being health and an expenditure of £412,000. Highways and police, which are excluded, totalled £1,200,000 and £500,000 respectively. The importance of education costs in relation to the proposed block grant is emphasized by the summary of capital expenditure: out of the total of £1 million the education service accounted for £860,000.

Mr. Jolly has included his usual valuable tables showing unit costs of the various services.

The smallholdings service continues to show a surplus and indeed the figure of £1,000 represents a slight increase over the previous year.

There was little change in the quantity of work undertaken by the children's committee. Average cost of boarding out was £1 12*s.* per week: average weekly cost in county homes was £5 17*s.*

In spite of counter attractions more library books were issued from the 624 branches and issuing centres: the average cost per book issued was 4¼*d.*

It cost £34 a year to educate a child in a primary school and £57 in a secondary school.

The county council does not believe in holding large balances. At March 31 the county fund balance was only £409,000—not by any means an excessive sum in relation to total county expenditure.

Loan debt continued to grow during the year. At March 31 it stood at £4 million, including £480,000 of temporary loans.

LONDON COUNTY COUNCIL AND ITS DOMESTIC NEGOTIATING MACHINERY

The London County Council Staff Association was formed in 1909 and a Joint Committee of Members and Staff was established in 1926 as domestic negotiating machinery for the council's permanent administrative, professional, technical and clerical staff. Last September, following a referendum, the Staff Association was accepted into affiliation by the Trades Union Congress. At the end of the next meeting of the Joint Committee, one of the Official Side mentioned in passing that they might recommend the Council to terminate the committee. The initial reason given was the fact that the Association had affiliated to the T.U.C. but this was subsequently denied by the leader of the council, Mr. I. J. Hayward. The clerk of the council, however, has stated in a letter to all members of the Staff Association: "In other ways, too, the Staff Association have thought it right to relate their efforts on behalf of the staff to organizations of national scope." The only other reasons advanced have been an alleged change in the Association's methods of publicizing its members' grievances, that national machinery covers practically all the types of staff within the purview of the Joint Committee and that national considerations have frequently been cited in support of pay claims. The Association constituted a negotiating team which had discussions with the Council's representatives in an effort to dissuade them from destroying the Joint Committee. These discussions continued intermittently from September to June, but in December the Council's representatives intimated that they could continue only on the basis that, if the discussions ultimately proved abortive, the six months' notice necessary to terminate the joint committee would be deemed to have been given. The Association's team reluctantly agreed to this condition and at its meeting on July 16, 1957, the London county council formally terminated the Joint Committee of Members and Staff.

The L.C.C. has now entered the employers' side of the National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Services and wishes the Staff Association to enter the Staff Side. A special L.C.C. panel would be created in which negotiations would take place but general pay claims would be negotiated only through the National Joint Council. The Staff Side of the National Joint Council is dominated by the National Association of Local Government Officers, who have informed the L.C.C. Staff Association that they are agreeable to the Association's entry to the National Joint Council and to the creation of the special L.C.C. panel, provided that the Association undertakes to enter discussions on the possibility of a merger with the National Association of Local Government Officers. This is unacceptable to the Association, which fears that in any event participation in the National Joint Council will lead to a depression in its members' standards. The L.C.C. administrative staff is recruited by competitive examination and its clerical staff by qualifying examination; its professional and technical staff must, of course, possess the appropriate high qualifications. Moreover, it has recently been announced that the National Association of Local Government Officers is concentrating on sectional claims; the National Staff Side is unlikely therefore to support a general pay claim for L.C.C. staff.

The L.C.C. Staff Association held a mass protest meeting at the Central Hall, Westminster, on July 24, 1957, at which the following motion was carried unanimously:—

"(*a*) That this meeting of members of the L.C.C. Staff Association express the strongest protest against the unwarranted termination by the council of its local joint negotiating committee although no agreement had been reached with the staff concerned on any acceptable alternative machinery.

(*b*) That this meeting affirms its unconditional opposition to entry to national negotiating machinery, believing that any such move would be prejudicial to the long term interests of the Council's staff."

Finally, a referendum held among the Staff Association's membership on whether or not they wish the Association to enter the National Joint Council has decided by 3,555 votes to 1,070 (a majority of over 3 to 1) against entering national machinery. All requests will be taken up with the clerk of the council in the first instance and, in case of disagreement, referred to the Minister of Labour with a view to arbitration.

PERSONALIA

APPOINTMENT

Mrs. G. M. Constable has been appointed a probation officer to serve Durham county combined area probation committee. She will take up her appointment on October 1, 1957, and will be assigned to the South Shields county borough area. Mrs. Constable is 49 years of age and was appointed a whole-time probation officer for the South Shields county borough in August, 1950 and remained in this post until April 30, 1955, when she resigned for domestic reasons.

RETIREMENTS

Mr. A. F. Percival, who has been clerk to the justices of the Soke of Peterborough since March 2, 1921 and of the Norman Cross division since June 21, 1921, is retiring from both clerkships on September 30. He is succeeded at Peterborough by his partner, Mr. E. T. Channell and at Norman Cross by Mr. F. R. M. Serjeant of Ramsey, Huntingdonshire. Mr. Percival succeeded his father, Mr. J. A. Percival, who had been clerk to both benches since 1884. Prior to that the clerkships were held by Mr. Nelson Wilkinson whose assistant was Mr. Joseph Blake. Mr. W. A. Barrows, who succeeded Mr. Blake as assistant in 1922, is also retiring. Two assistants have covered the period from at least 1880 (approximately) to September, 1957, in these clerkships.

Mr. Alfred Burt, chief clerk of Plymouth, Kingsbridge, Tavistock and Liskeard county courts and of Plymouth district registry, is retiring on September 30, next. Mr. Burt is 62 years of age. Before coming to Plymouth five years ago, Mr. Burt served Ashford, Hastings and Eastbourne.

OBITUARY

Mr. Joseph Duke, clerk to Ilminster, Somerset, justices, for 42 years until his retirement in 1949, has died at the age of 74. Mr. Duke was senior partner in the firm of Messrs. Baker and Duke, solicitors, North Street, Ilminster and also practised as J. Duke & Co., of Silver Street, Ilminster. Mr. Duke was admitted in May, 1900, after having served his articles with the late Mr. M. B. Baker. He became a partner with Mr. Baker in 1901, the firm then being known as Baker and Duke

In the same year, Mr. Duke became assistant clerk to Ilminster urban district council and when the late Mr. Baker retired in 1907, he became clerk. He held that post until 1946, except for five years distinguished service in the First World War. Mr. Duke was also clerk to Ilminster Joint Burial Board for many years.

Mr. Duke was clerk to Ilminster petty sessional division magistrates from 1907 to 1949, and on his retirement, his son Mr. J. J. D. Duke, T.D., succeeded him.

NOSEY-PARKERS

Closely allied to its enthusiasm, to which we referred last week, for putting people in their place, is the predilection of Authority for sorting out, classifying, tabulating, indexing and cross-indexing the population according to some real or notional differentiation in characteristics. The zeal with which government employees engage in such pursuits suggests that it helps to satisfy a deep-seated and universal impulse—the impulse to dominate. The German philosopher Friedrich Nietzsche called it " the will to power "; and although his doctrines were addressed to those leaders of men who are willing to " live dangerously," and not to the rank and file, more than one psychologist since his day has seen in that doctrine the uninhibited expression of a very primitive instinct.

If anyone questions that, let him watch two very young children playing together with " their " toys; we warrant it will not be long before one or the other seeks to appropriate them all, not hesitating to use physical violence to attain his ends. What, indeed, is history but an account of the domination, by one race, nation or class, of the other or others ? And, once domination is achieved, what more natural than the " You, stand in that row, over there; you others over here " type of edict. From that it is but a short step to classification, tabulation and statistics.

Human beings themselves, being what they are, are apt to rebel, in the long run, against being treated as pawns on the governmental chess-board; as is becoming increasingly evident even in such strongholds of reaction as the Union of South Africa and the Deep South of the United States, they *will* run about in the most provoking manner and get themselves mixed up in the wrong line. The beauty of statistical data is that, once you have ruled up your nice clean sheet of paper into neat, headed columns, and written down so many units in each, the figures stay put, with exemplary obedience, while you draw your deductions—however prejudiced, erroneous and wide of the mark. Hence the saying that " there are three categories of liars—ordinary liars, damned liars, and statisticians." Hence also the complacent dogmatism of the eminent specialist at the doctors' conference, who asserted that a certain rare disease attacked people " at an average age of 25." Asked to produce the data on which his deduction was based, he disclosed that this particular disease had so far attacked two people—a child of two and a woman of 48.

But it is not merely in the science, or art, of statistics that this propensity comes out. It shows itself also in the official enthusiasm for forms of all kinds—forms of application for appointments, passports, identity cards and the like. And, having once issued the forms to " the public " and got them to enter intimate details of their past in sections 1, 3, 4 and 6, how the bureaucratic mind revels in sullying the virgin whiteness of sections 2, 5, 7 and 8 (" Reserved for official use only ") with rubber stamps, cryptic code-signs, scribbled hieroglyphics and doodles, in vari-coloured inks, resembling some hitherto-undeciphered script. Even in biblical times the taking of a census was regarded with aversion, since more often than not it was the prelude to conscription, forced labour, taxation or some other form of petty tyranny; (consider, for instance, the examples in the last chapter of the Second Book of Samuel, and the second chapter of St. Luke). At the present day the bad old fashion persists, and compulsory form-filling may lead to deportation, the loss of civil rights, appearance before an investigating committee, or deprivation of secondary education and of the right to travel abroad.

Liberal opinion, in this country and elsewhere, is vigilant in its protests against the encroachments of bureaucracy upon individual privacy and freedom. It is only a few years since a successful campaign was waged against the compulsory retention of identity-cards several years after the end of the War. At an African Travel Congress, earlier this year, European delegates attacked and ridiculed the form-filling mania which was then rife at border-posts in certain territories. One speaker alleged that a form he had been required to complete contained a section headed " Wife—Name and Sex "; while another recalled the demand of the immigration officials upon a man (aged 82), crossing into neighbouring territory, to declare the maiden name of his grandmother (who was born in the year of Waterloo).

Finger-printing has long been *de rigueur* for visitors to the United States—an odious form of bureaucratic inquisitiveness that is carried out, ironically enough, under the very nose of the Statue of Liberty in New York harbour. The *reductio ad absurdum*, however, has now been attained by the Animal Insurance Corporation of America, which offers life assurance on pedigree dogs, and supplies to its clients a " Canine Application Form " containing a blank space for the " noseprint " of the assured. Every dog, it is said, has a different " nose pattern," from which its identity may be determined; and insistence upon this means of identification should prevent fraud in any claim arising on the death of the " life assured ".

Much biting comment is likely to be aroused, in canine circles, by this startling innovation. And rightly so. Before they can bark a protest, the Committee for Un-American Activities will be off on a new inquisition, demanding that, (to start with) every Pekingese and Borzoi in the United States give full particulars (on pain of prosecution for contempt) of all the lamp-posts he has ever investigated in his political career. Once they have gone that far, it will not be long before the inquiry is extended, on some pretext, to what Kipling called " lesser breeds without the law." There is a smell of battle in the air; taking into account the present explosive situation in the Middle East, we have sought further biblical precedent; but we have found little or no comfort in the following quotation from the *Song of Songs* (chapter vii, verse 4):

> " Thy nose is as the tower of Lebanon, which looketh towards Damascus."

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Criminal Law—*Letting of furnished house—Misrepresentation by tenant—Obtaining credit by fraud.*

A is the owner of a house which she has let to B. When the tenancy was contracted B stated that he was a major (retired), that he had recently returned from abroad, that he was looking for a house but was unable to supply any references. The house in question was let on a verbal tenancy to B at a weekly rent of £4 10*s.*, landlord paying rates.

The tenancy is a furnished tenancy and B was given an option to renew. It has now been found that B may once have held the rank of major in the Army, but has certainly not returned from abroad. He is, in fact, a well-known debtor and moved into A's house from another house from which he was ejected, owing approximately £90 of rent. He has no means, so far as can be ascertained, *e.g.*, a pension which would enable him to contemplate affording a rent of £4 10*s.* per week.

It seems that the conduct of B is barely distinguishable from the circumstances in *R.* v. *Ingram* [1956] 2 All E.R. 639. It would seem that B has obtained credit; secondly, even if a colourable truth could attach to B's statement that he was a retired officer recently returned from abroad, nevertheless his failure to disclose the fact that he had insufficient means, not to mention other debts, would seem to be a *supressio veri* sufficient to amount to fraud. Thirdly, he undoubtedly incurred a debt or liability in that he became liable to pay a weekly rent of £4 10*s.*

Does B's conduct amount to an offence within s. 13 (1) of the Debtors Act, 1869? FENAS.

Answer.

We agree, rather tentatively, that the facts in this case disclose the three ingredients laid down in *R.* v. *Ingram* [1956] 2 All E.R. 639; 120 J.P. 397, as being necessary to found the offence of obtaining credit by fraud, contrary to s. 13 (1) of the Debtors Act, 1869. At the same time, we should have thought that the civil remedy open to the landlady would be more appropriate.

2.—Criminal Law—*Order under Criminal Justice Act,* 1948, *s.* 22 (1) (*a*)—"*At least two previous occasions.*"

May I have your observations on the following point arising from your Weekly Note of Case *R.* v. *Perfect* at 121 J.P.N. 310.

You quote the finding of the court "'at least two previous occasions' in s. 22 (1) referred to two separate appearances each at a separate court of *quarter sessions* or *Assizes* . . ."

I have always interpreted s. 22 (1) (*a*) of the Criminal Justice Act, 1948, as referring to two previous convictions at any age, at any court and for any offence; for which the offender was sentenced to borstal training or imprisonment.

I contrast this with s. 21 (1) (*b*) (corrective training), which refers to two previous convictions *since attaining the age of 17* of offences *punishable on indictment* with imprisonment for two years or more; and with s. 21 (2) (*b*) (preventive detention), which refers to three previous convictions *on indictment* since *attaining the age of 17* of offences *punishable on indictment* with such a sentence.

If my interpretation of s. 22 (1) (*a*) is correct, the quotation above would appear to be a mis-statement of the law.

GITARC.

Answer

We agree with our correspondent's interpretation of s. 22 (1) (*a*) of the Act. All the reports of *R.* v. *Perfect* which we have consulted contain the wording he quotes. It may be that this slip arose from the circumstances of the particular case before the court. We think that the law was more correctly stated in *R.* v. *Rogers* [1953] 1 All E.R. 206; 117 J.P. 83, where the expression "previous occasions" was held to mean separate appearances at individual courts of trial.

3.—Justices' Clerks—*Fees—Joint charges and joint defendants in committal for trial—One charge withdrawn.*

I should very much welcome your opinion as to what are the proper fees to be charged in the following circumstances:

A and W are separately charged as follows:

A with (i) being drunk and disorderly; (ii) assaulting a constable while on duty; (iii) jointly with W, assaulting a constable on duty; W with (i) being drunk and disorderly; (ii) assaulting a constable while on duty; (iii) jointly with A, assaulting a constable on duty; all these charges being preferred at the police station when the two defendants were arrested as a result of the incident giving rise to the charges—the two defendants then being bailed by the police to appear before the local magistrates' court at a later date. In the interim period an information is laid against A alleging the infliction of grievous bodily harm upon a police sergeant, and a summons is issued for that offence returnable at the same court for which the defendants were bailed.

When the cases are called on, both sides are legally represented (the two defendants by counsel), and the court is asked to adjourn case (i) against both A and W *sine die*; to permit the withdrawal of case (ii) against A, and to deal with the remaining cases against both defendants all together. The court acquiesced and the two defendants then purported to exercise a right to trial by jury in respect of the outstanding charges being dealt with—though it would seem that except for the major charge against A (inflicting grievous bodily harm), no such right existed in respect of the cases of assault on the constable which were brought under s. 12 of the Prevention of Crimes Act, 1871.

However, all the cases were taken together and depositions were taken and in the result both defendants were committed for trial on the charges then before the court—there being only one set of depositions and only one committal. The attention of quarter sessions has been brought to the position.

Your opinion on the matter of fees to be charged (including those in respect of the adjourned and withdrawn cases) will be greatly valued. HOSON.

Answer.

We answered a question involving similar considerations at 118 J.P.N. 207. As we said then, the point is not free from doubt but we think that on the facts given these committal proceedings constitute one case committed for trial and the appropriate fee is 25*s.* We do not think that the fact that charges which are not indictable may have been included affects this position.

So far as the cases which stand adjourned *sine die* are concerned, we do not think that any fee is chargeable at this stage; for the case against A which was withdrawn a fee of 4*s.* is chargeable, the withdrawal being equivalent, for this purpose, to a dismissal of the charge.

4.—Landlord and Tenant—*Small Tenements Recovery Act,* 1838—*Warrant for possession—Tenant leaving voluntarily.*

A warrant for possession within 21 to 30 days having been granted for the ejection under the Act, the warrant was handed to the police. A police constable visited the tenant after the 21 days but before 30 days from the date of the making of the order, and asked the tenant to leave before expiry of the 30 days, which the tenant agreed to do. In fact he did so, taking his furniture with him and delivering the key to the landlord some days after the constable's last visit, but before the 30 days had elapsed. Under the circumstances should the police endorse the warrant for possession as executed, or is it unexecuted by virtue of the fact that it has been unnecessary to carry out the precise terms of the warrant, namely, "to eject thereout any person, and of the said tenement full and peaceable possession to deliver to the . . . landlord." Would the position be any different if the constable was handed the key by the tenant and then later handed it to the landlord? P. UTILE.

Answer

As the result of the call by the police constable, the execution of the warrant was not necessary and possession was given to the landlord. Possession was not given to the constable and it will be sufficient if he endorses the warrant to the effect that possession was given to the landlord.

5.—Magistrates—*Bias—Master at a school sitting in a case in which a pupil of that school is a defendant—Position of master's wife.*

It has been suggested to me that a magistrate should not sit on the juvenile bench who is a master at the school at which a juvenile defendant attends or the wife of a master at his school. It appeared to me there are no objections to such justices sitting but I shall be glad to have your observations on this.

KARTAT.

Answer

We think that the master should not sit in a case in which a pupil at his school appears as a defendant, because the pupil,

knowing him to be a master, might think that he was influenced by considerations outside the evidence relating to the case.

We do not think that there is any such general objection to a master's wife, unless it is a boarding school, so that she is also in contact with the boys there. If in a particular case, however, her husband has spoken about the defendant to her, she may feel that she ought not to sit because she has that additional knowledge of him.

6.—Magistrates—*Practice and procedure—Appeal under s.* 14, *Vagrancy Act,* 1824—*Costs in Criminal Cases Act,* 1952, s. 14 (3).

Having regard to the fact that the right of appeal against a conviction is s. 84 of the Magistrates' Courts Act, 1952, can s. 14 (3) of the Costs in Criminal Cases Act, 1952, be said to apply to an appeal against a conviction of an offence under the Vagrancy Act, 1824? Can you say what the object of s. 14 (3) is? GOSSAC.

Answer.

In addition to the right of appeal against conviction contained in s. 84 of the Magistrates' Courts Act, 1952, there still exists a right of appeal against any determination by justices under the provisions of the Vagrancy Act, 1824. This is contained in s. 14 of the Act, and s. 14 (3) of the Costs in Criminal Cases Act, 1952, refers to such an appeal.

7.—Nuisance—*Dried watercourse—Mill race.*

A privately owned mill race has been disused for many years. Its length is about three-quarters of a mile, its width 10 *ft.* and its average depth three *ft.* About half of its course is through the centre of an urban district. The apparatus at its upper end and junction with the river for regulating the admission of water is still in working order but, as previously stated, no water has been admitted from the river for at least 10 years. Part of its course is open to the public view and many complaints are now being made as to the amount of rubbish, weeds, etc., which have accumulated over the years. In wet weather puddles of water form, partly because the race is generally at a lower level than the surrounding land. The rubbish which has accumulated is not, in my view, such as to give rise to a nuisance, *i.e.,* it is not putrescible or attractive to flies.

I have contemplated advising the council that the present state of the mill race constitutes a nuisance on the ground that the puddles of water which are stagnant, but not giving off any noticeable smell, can lead to the reproduction of mosquitoes. On the facts detailed, will you advise me if you consider action can be taken under the nuisance provisions of the Public Health Act, 1936. DARIP.

Answer.

It does not look as if s. 259 (1) of the Public Health Act, 1936, is available, since there is no present nuisance. We do not think the stagnant water can be so treated, merely because mosquitoes might breed there. Subsection (2) is probably not much use, because the persons dumping rubbish will not be readily caught. The council could, however, deal with the rubbish and stagnant water themselves under s. 260; this might be less costly, and certainly less troublesome, than attempting to compel private persons to do so under s. 259. We have looked through many decisions of the High Court, but have found no help.

8.—Probation—*Order made at quarter sessions—Subsequent convictions for fresh offences—Probation committee of supervisory court's area recommend proceedings—Whose duty to lay information?*

X, 23 years of age and of no fixed abode, is committed for trial at a court of quarter sessions for an offence of breaking and entering. He is placed on probation by the court of quarter sessions for a period of three years. The magistrates' court, committing for trial, is designated as the supervising court. During the period of probation X is convicted of (i) travelling on the railway without paying his fare, and (ii) wilful damage, on separate dates and at separate magistrates' courts, distinct and remote from the supervising court. The area probation committee for the supervising court are made conversant with the facts concerning offences (i) and (ii) and decide that X shall be brought back before court in respect of the original offence, for which he is placed on probation.

(*a*) Who is, in law, responsible for carrying out this directive of the area probation committee, and

(*b*) Upon whom does the responsibility for laying and signing the information devolve?

M. VIARUM.

Answer.

We have dealt with somewhat similar questions before, *see, e.g.,* 120 J.P.N. 826 P.P.5.

There is no statutory requirement that it is the duty of any person to lay the information, but in the circumstances of the present case we think it should be done by the probation officer under whose supervision X was placed. He can obtain extracts from the relevant magistrates' court registers setting out the convictions in question.

9.—Public Health Act, 1936—*Sewer for housing estate—Whether public sewer.*

The rural district council are proposing to develop a housing site and to lay a sewer from that site across intervening land to connect with a sewage disposal works on an existing housing site. The proposed sewer will not be a public sewer so that s. 15 of the Public Health Act, 1936, is not available and negotiations are proceeding with the owners concerned for an easement through their land. On two of the fields there are groups of three and four houses respectively drained to a septic tank. The two owners concerned have asked the council to allow the overflow from these septic tanks to be connected to the council's sewer. In view of s. 20 (2) it is doubtful whether the council could permit the connexion. They would be glad of your opinion:

1. Whether permission to connect the drainage from the private houses to the council's sewer, which will be laid by them as a housing authority, would bring the sewer outside the scope of s. 20 (2) and within s. 20 (1) (*b*) thereby making it a public sewer which would include the obligations under s. 34;

2. If the answer to 1. is that the sewer in question would be a public sewer, would your answer be the same if permission was now being sought to connect to a sewer laid some years ago and constructed only to drain council house property?

PORSIC.

Answer

1. No, in our opinion.
2. This does not now arise.